



## Construction and Materials Manual

Wisconsin Department of Transportation

### Chapter 2 Contract Management

#### Section 18 Contract Supervision and Relations

### 2.18.1 AUTHORITY OF THE ENGINEER

The term "engineer" as defined in the standard specs refers to the Secretary of the Department of Transportation or the secretary's authorized representative limited by the particular duties assigned to the representative. Of greater interest to project staff are the duties and responsibilities assigned to the engineer. While the specific duties and responsibilities may vary somewhat depending on the type of contract and region organization, the following general statements outline the engineer's role.

The statements also apply to negotiated agreements (local force accounts) where a municipality (county or other local unit of government) is performing the construction work on their own system. The term "contract" as used in this subject also applies to the negotiated "agreement", and the term "contractor" also applies to the municipality.

In general, the engineer is in "responsible charge" of the contract, which includes the field administration of the contract, control of the work, enforcement of the terms of the contract, and determination of the amount of work performed and materials furnished. These become the responsibilities of the engineer assigned to the project. Within the limits of the department's policies and control procedures and the approved program and policies of the region, the engineer is responsible for and has the delegated authority for obtaining work that fulfills requirements of the contract. The term project engineer as used in [standard spec 105.7](#) is synonymous with the term engineer used in this manual.

The engineer may suspend the work wholly or in part for the contractor's failure to correct conditions unsafe for the project personnel or general public, for the contractor's failure to carry out provisions of the contract, or for the contractor's failure to carry out orders of the engineer.

The engineer is in charge of inspectors assigned to the project. Decisions regarding suspension of work acceptance or rejection of materials or work will be made by the engineer, or in some cases referred by the engineer to higher authority. Inspectors hired by third parties such as municipalities (counties or other local units of government) will also report to the engineer for decisions regarding work under the contract.

The engineer has the authority, under [standard spec 108.4](#), to request, in writing, that the contractor remove from the project any employee who is intemperate, disorderly, or not sufficiently skilled.

### 2.18.2 CONTRACTOR SUPERVISION

[Standard spec 105.5](#) requires the contractor to provide a competent superintendent or designated representative who has full authority to execute directions or instructions of the engineer without delay and to promptly supply all things needed to properly perform the work. The superintendent or designated representative of the contractor must be accessible to the engineer during all hours of each workday.

The engineer and inspectors must not act as foreperson, superintendent, or coordinator for the contractor. Instructions and suggestions concerning the work are to be given to the contractor, superintendent or work supervision, but not to the workers. Any suggested changes are to be given solely for the benefit of the work and to be clearly differentiated from directions.

### 2.18.3 COOPERATION BETWEEN CONTRACTORS

[Standard spec 105.5](#) requires that contractors working on overlapping or adjacent contracts coordinate their operations so as not to interfere with the operation and progress of the other. They are further required to perform their work in proper sequence in relation to that of other work so that all work may be accomplished in a timely and efficient manner.

Standard spec 105.5 also provides that in case of a dispute arising between two or more contractors engaged on the same improvement as to the respective rights of each under the specifications, the engineer will determine the matters at issue and will define the respective rights general harmony and with satisfactory results.

### 2.18.4 PROJECT STAFF AND CONTRACTOR RELATIONS

The contractor's goal is to satisfactorily perform and complete, at a profit, the work under contract with WisDOT. A municipality performing work under a negotiated agreement will not be making a profit on the agreement work. The goal of the department is to make certain that acceptable work is completed in accordance with contract terms, including the plan, specifications, and estimate.

To accomplish these goals there must be cooperation and understanding between the two parties. The contractor should expect to do what the contract requires, and the state should expect to pay for contract work done. The contractor should not expect to be paid for work that is done, but not required by the contract nor ordered by the engineer. The state should not require the contractor to provide more than the contract requires, unless the contractor is adequately compensated.

The conduct of relations with the contractor should be fair, courteous, and based on sound, reasoned judgment in compliance with specifications and policy. WisDOT decisions should be firmly conveyed to the contractor with clearly defined justification.

Good relations with the contractor should be promoted by advising, whenever possible, of unacceptable work while the operation is in progress, rather than waiting until the work is completed and then requiring its removal or a pay reduction.

The engineer and staff do not manage the contractor's operations. They are to give all instructions about the work to the contractor or to the contractor's superintendent. Instructions are not to be given directly to the contractor's workers or the subcontractors except in emergency situations where safety is involved. Suggestions can be given if requested by the contractor. The prime or general contractor is responsible for coordinating the efforts of various subcontractors.

Project staff are not to make derogatory remarks about the organization, personnel, equipment, or methods of the contractor or subcontractors. Project staff are not to place themselves under obligation to the contractor by accepting gifts or services. Excessive fraternization with the contractor and contractor's personnel should be avoided.

Project staff should fulfill any reasonable request of the contractor that will allow accomplishment of work in accordance with the contract provisions and without delay, but are not to perform tasks that are the responsibility of the contractor or subcontractors.

### **2.18.5 PROJECT PERSONNEL RELATIONS**

The engineer is responsible for all administrative matters involving employees assigned to the project. To accomplish this duty, the engineer should have available all current department and region policies concerning expenses, time changes, overtime, ethics, accident reporting, and similar subjects, and become familiar with contents of the policies. The engineer also should have on hand current agreements between the state and unions and associations representing project personnel, and should become familiar with their provisions. The engineer should keep personnel informed of policy changes that may affect them.

All construction administration personnel assigned to the project are responsible to the engineer in the fulfillment of their duties. The engineer may delegate to assistants authority as deemed necessary for the proper performance of their work but cannot relinquish overall responsibility. The other construction administration personnel assigned to the project are subordinate to the engineer, are subject to the engineer's directions, and are expected to cooperate in the best interests of the project.

Before the start of an employee's work assignment, the engineer will brief the employee on duties, responsibilities, job relationship with other construction administration personnel, pertinent region and department policies, and status of project construction.

### **2.18.6 FEDERAL HIGHWAY ADMINISTRATION AND OTHER FEDERAL AND STATE AGENCY RELATIONS**

Federal-aid highway improvement projects are administered by the department on the basis of a State-Federal agreement, even though there may be no state funds in the projects, only local and federal monies.

The Federal Highway Administration (FHWA) has the responsibility to monitor projects constructed with federal aid highway funds for compliance with Federal aid requirements. Consequently, FHWA representatives may be in the region office and on the project site at various times to determine if the project is being administered by the department in compliance with plans, specifications, and estimates and in compliance with Federal laws and regulations and state adopted policies and procedures.

Department personnel are expected to be courteous and to cooperate fully with FHWA representatives, answering all questions about the construction operations and staff responsibilities, and provide full access to all records and reports.

It should be understood the FHWA will not interfere with, direct, or supervise the contractor's operations and personnel. Representatives of the FHWA are primarily on the project to review and assess the department's procedures and controls for ensuring that the work is being completed in reasonably close conformity with the

plans and specifications, and to evaluate the overall quality of construction.

It should also be understood the FHWA representatives do not have the authority to issue instructions to employees of the department or to employees or private consulting firms retained by WisDOT. These instructions are issued either by the engineer or supervisor.

During their review, FHWA representatives may also be reviewing and reporting on conditions that are pertinent to pending contract change orders. Other anticipated changes from the construction plan and contract should be brought to their attention by the engineer so the change orders may be expedited should it be necessary to submit them to the FHWA for approval.

Following completion of the project review, FHWA will send a copy of their written findings to the Bureau of Project Development and region office for information and for follow-up action when warranted.

Other Federal and State agency representatives may also be on the project at various times because of an interest in the construction. WisDOT personnel are to answer questions to the best of their ability and knowledge and to treat the visitors with courtesy. Personnel should be aware these persons do not have the authority to issue instructions and orders to the contractors, WisDOT employees, or employees of private consulting firms retained by WisDOT. These instructions are issued either by the engineer or supervisor.

The engineer or designated representative should accompany FHWA and other agency representatives during their visit to explain the work operations and work schedule, answer questions, and ensure the safety of the visitors from injury by construction machinery and activity.

Suggestions that may be offered by visitors should be accepted with the explanation that action cannot be taken until a decision based on facts is made by the engineer or the region office.